

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

SENATE BILL

No. 621

Introduced by ~~Senator Burton~~ Senators Burton and Battin

(Principal coauthor: Assembly Member Jerome Horton)

(Coauthors: Senators Ducheny and Hollingsworth)

(Coauthors: Assembly Members Cohn, Benoit, Bogh, Dymally, Chavez, Frommer, Garcia, Longville, McCarthy, Plescia, and Reyes)

February 20, 2003

~~An act to amend Section 23104.2 of the Business and Professions Code, relating to alcoholic beverages. An act to amend Section 12012.85 of, and to add Chapter 7.5 (commencing with Section 12710) to Part 2 of, the Government Code, relating to gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 621, as amended, Burton. ~~Alcoholic beverage control; licensees; returns.~~ *Indian gaming.*

(1) Existing law creates in the State Treasury the Indian Gaming Revenue Sharing Trust Fund and the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of those gaming compacts and authorizes moneys in those funds to be used for certain purposes.

This bill, until January 1, 2009, would establish the method of calculating the distribution of appropriations from the Indian Gaming Special Distribution Fund for grants to local government agencies impacted by tribal gaming. The bill would require a County Tribal Casino Account, as defined, to be created in the State Treasury for each county that contains a tribal casino, which would be funded according

to a specified method. The bill would require the State Controller to divide the county tribal casino account, as specified, into individual tribal casino accounts, as specified. The bill would create in each county where Indian gaming is conducted an Indian Gaming Local Community Benefit Committee, as specified, to select grants projects, pursuant to certain grant application policies and procedures, and would require that the grants be administered by the county. By placing additional duties on the counties, this bill would impose a state-mandated local program. The bill would establish a set of priorities for the receipt of grant money. The bill would require that grants be affirmatively sponsored by a tribe paying into the Indian Gaming Special Distribution Fund, as specified. The bill would require an Indian Gaming Local Community Benefit Committee to submit to the Controller a list of approved projects, upon which the Controller would release the funds directly to the chosen local government entities. The bill would require counties to report to the Legislature regarding the use of grant moneys. By placing additional duties on the counties, this bill would impose a state-mandated local program. The bill would require the State Auditor to conduct an audit of the allocation and use of moneys from the Indian Gaming Special Distribution Fund. The bill would appropriate \$25,000,000 from the Indian Gaming Special Distribution Fund to the Controller for distribution, pursuant to its provisions, to local government agencies impacted by tribal gaming.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

~~Except as otherwise specified, a retail licensee is permitted to return beer to the wholesaler or manufacturer from whom the retail licensee purchases the beer, if various conditions are satisfied, and receive an identical quantity and brand of beer as an exchange or, if the order was~~



~~incorrect, it may be corrected. A credit memorandum may be issued instead of the exchange if the return and corrections are completed within 15 days from the date that the beer was delivered to the retail licensee.~~

~~This bill would permit the return and corrections to be completed by the next business day following the 15th day from the date that the beer was delivered if the 15th day falls on a Saturday, Sunday, or legal holiday.~~

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 23104.2 of the Business and Professions~~
2 *SECTION 1. The Legislature finds and declares all of the*
3 *following:*
4 *(a) Pursuant to the tribal-state gaming compacts, only 28 tribal*
5 *governments pay into the Indian Gaming Special Distribution*
6 *Fund based on the number of gaming devices operated on*
7 *September 1, 1999.*
8 *(b) A county system of grants, based on the proportionate share*
9 *that those 28 tribal governments actually pay into the Indian*
10 *Gaming Special Distribution Fund, is the most efficient and fair*
11 *method of distribution.*
12 *(c) Those counties with tribal gaming from gaming tribes that*
13 *do not contribute to the Indian Gaming Special Distribution Fund*
14 *should be eligible to receive some funds from the Indian Gaming*
15 *Special Distribution Fund.*
16 *(d) Tribal governments must participate in the process of*
17 *identifying and funding mitigation of impacts from tribal gaming*
18 *through the grant process.*
19 *SEC. 2. Section 12012.85 of the Government Code is*
20 *amended to read:*
21 *12012.85. There is hereby created in the State Treasury a fund*
22 *called the “Indian Gaming Special Distribution Fund” for the*
23 *receipt and deposit of moneys received by the state from Indian*
24 *tribes pursuant to the terms of tribal-state gaming compacts. These*
25 *moneys shall be available for appropriation by the Legislature for*
26 *the following purposes:*

- 1 (a) Grants, including any administrative costs, for programs
2 designed to address gambling addiction.
- 3 (b) Grants, including any administrative costs, for the support
4 of state and local government agencies impacted by tribal
5 government gaming.
- 6 (c) Compensation for regulatory costs incurred by the State
7 Gaming Agency and the Department of Justice in connection with
8 the implementation and administration of tribal-state gaming
9 compacts.
- 10 (d) Payment of shortfalls that may occur in the Indian Gaming
11 Revenue Sharing Trust Fund. This shall be the priority use of
12 moneys in the Indian Gaming Special Distribution Fund.
- 13 (e) Disbursements for the purpose of implementing the terms
14 of tribal labor relations ordinances promulgated in accordance
15 with the terms of tribal-state gaming compacts ratified pursuant to
16 Chapter 874 of the Statutes of 1999. No more than 10 percent of
17 the funds appropriated in the Budget Act of 2000 for
18 implementation of tribal labor relations ordinances promulgated
19 in accordance with those compacts shall be expended in the
20 selection of the Tribal Labor Panel. The Department of Personnel
21 Administration shall consult with and seek input from the parties
22 prior to any expenditure for purposes of selecting the Tribal Labor
23 Panel. Other than the cost of selecting the Tribal Labor Panel, there
24 shall be no further disbursements until the Tribal Labor Panel,
25 which is selected by mutual agreement of the parties, is in place.
- 26 (f) Any other purpose specified by law.
- 27 (g) *Priority for funding from the Indian Gaming Special*
28 *Distribution Fund is in the following descending order:*
- 29 (1) *An appropriation to the Indian Gaming Revenue Sharing*
30 *Trust Fund in an aggregate amount sufficient to make payments of*
31 *any shortfalls that may occur in the Indian Gaming Revenue*
32 *Sharing Trust Fund.*
- 33 (2) *An appropriation to the Office of Problem and Pathological*
34 *Gambling within the State Department of Alcohol and Drug*
35 *Programs for problem gambling prevention programs.*
- 36 (3) *The amount appropriated in the annual Budget Act for*
37 *allocation between the Division of Gambling Control and the*
38 *California Gambling Control Commission for regulatory*
39 *functions that are directly related to Indian gaming.*

1 (4) *An appropriation for the support of local government*
2 *agencies impacted by tribal gaming.*

3 SEC. 3. *Chapter 7.5 (commencing with Section 12710) is*
4 *added to Part 2 of Division 3 of Title 2 of the Government Code,*
5 *to read:*

6
7 CHAPTER 7.5. *GRANTS OF INDIAN GAMING REVENUE TO LOCAL*
8 *GOVERNMENT AGENCIES*
9

10 12710. *This chapter establishes the method of calculating the*
11 *distribution of appropriations from the Indian Gaming Special*
12 *Distribution Fund for grants to local government agencies*
13 *impacted by tribal gaming.*

14 12711. (a) *It is the intent of the Legislature to establish a fair*
15 *and proportionate system to award grants from the Indian Gaming*
16 *Special Distribution Fund for the support of local government*
17 *agencies impacted by tribal gaming. It is also the intent of the*
18 *Legislature that priority for funding shall be given to local*
19 *government agencies impacted by the tribal casinos that*
20 *contribute to the Indian Gaming Special Distribution Fund.*

21 (b) *It is the intent of the Legislature that in the event that any*
22 *compact between any tribe and the state takes effect on or after the*
23 *effective date of this chapter, or that any compact between any tribe*
24 *and the state that took effect on or before May 16, 2000, is*
25 *renegotiated and reexecuted at any time after its initial effective*
26 *date, money provided to the state by a tribe pursuant to the terms*
27 *of these compacts shall be applied on a pro rata basis to the state*
28 *costs for the regulation of gaming and for problem gambling*
29 *prevention programs in the Office of Problem and Pathological*
30 *Gambling within the State Department of Alcohol and Drug*
31 *Programs.*

32 (c) *It is the intent of the Legislature that if any compact between*
33 *any tribe and the state takes effect on or after the effective date of*
34 *this chapter, or if any compact between any tribe and the state that*
35 *took effect on or before May 16, 2000, is renegotiated and*
36 *reexecuted at any time after its initial effective date, any revenue*
37 *sharing provisions of that compact that requires distributions to*
38 *nongaming or noncompact tribes shall result in a decrease in the*
39 *amount that the Legislature appropriates pursuant to this chapter.*

40 12712. *As used in this chapter:*

1 (a) “County Tribal Casino Account” means an account
2 consisting of all moneys paid by tribes of that county into the
3 Indian Gaming Special Distribution Fund after deduction of the
4 amounts appropriated pursuant to the priorities specified in
5 Section 12012.85.

6 (b) “Individual Tribal Casino Accounts” means an account for
7 each individual tribal casino that has paid money into the Indian
8 Gaming Special Distribution Fund. The individual tribal casino
9 account shall be funded in proportion to the amount that the
10 individual tribe has paid into the Indian Gaming Special
11 Distribution Fund.

12 (c) “Local jurisdiction” means any city, county, or special
13 district.

14 12713. The Department of Finance, in consultation with the
15 California Gambling Control Commission, shall calculate the
16 total revenue in the Indian Gaming Special Distribution Fund that
17 will be available for the current budget year for local government
18 agencies impacted by tribal gaming. The department shall include
19 this information in the May budget revision.

20 12714. (a) A County Tribal Casino Account is hereby created
21 in the treasury for each county that contains a tribal casino.

22 (b) The amount to be deposited into each eligible county’s
23 County Tribal Casino Account shall be calculated in the following
24 way:

25 (1) (A) For counties that do not have gaming devices subject
26 to an obligation to make contributions to the Indian Gaming
27 Special Distribution Fund, the total amount to be appropriated by
28 the Legislature for grants to local government agencies impacted
29 by tribal gaming shall be multiplied by 5 percent.

30 (B) The amount determined pursuant to subparagraph (A)
31 shall be divided by the aggregate number of gaming devices
32 located in those counties that do not have gaming devices subject
33 to an obligation to make contributions to the Indian Gaming
34 Special Distribution Fund.

35 (C) The amount determined pursuant to subparagraph (B)
36 shall be multiplied by the number of gaming devices located in
37 each county for which an appropriation is being calculated that
38 are not subject to an obligation to make contributions to the Indian
39 Gaming Special Distribution Fund.

1 (D) The amount determined pursuant to subparagraph (C)
2 shall be deposited into the County Tribal Casino Account for the
3 county for which the appropriation was calculated.

4 (2) (A) For counties that have gaming devices subject to an
5 obligation to make contributions to the Indian Gaming Special
6 Distribution Fund, the total amount to be appropriated by the
7 Legislature for grants to local government agencies impacted by
8 tribal gaming shall be multiplied by 95 percent.

9 (B) The amount determined pursuant to subparagraph (A)
10 shall be divided by the aggregate number of gaming devices
11 located in those counties that have gaming devices subject to an
12 obligation to make contributions to the Indian Gaming Special
13 Distribution Fund.

14 (C) The amount determined pursuant to subparagraph (B)
15 shall be multiplied by the number of gaming devices located in
16 each county for which an appropriation is being calculated that
17 are subject to an obligation to make contributions to the Indian
18 Gaming Special Distribution Fund.

19 (D) The amount determined pursuant to subparagraph (C)
20 shall be deposited into the County Tribal Casino Account for the
21 county for which the appropriation was calculated.

22 12715. (a) The Controller, acting in consultation with the
23 California Gambling Control Commission, shall divide the
24 County Tribal Casino Account for each county that has gaming
25 devices that are subject to an obligation to make contributions to
26 the Indian Gaming Special Distribution Fund into a separate
27 account for each tribe that operates a casino within the county.
28 These accounts shall be known as Individual Tribal Casino
29 Accounts, and funds may be released from these accounts to make
30 grants selected by an Indian Gaming Local Community Benefit
31 Committee pursuant to the method established by this section to
32 local jurisdictions impacted by tribal casinos. Each Individual
33 Tribal Casino Account shall be funded in proportion to the amount
34 that each individual tribe paid in the prior fiscal year to the Indian
35 Gaming Special Distribution Fund.

36 (b) (1) There is hereby created in each county in which Indian
37 gaming is conducted an Indian Gaming Local Community Benefit
38 Committee. The selection of all grants from each Individual Tribal
39 Casino Account or County Tribal Casino Account shall be made
40 by each county's Indian Gaming Local Community Benefit

1 *Committee. In selecting grants, the Indian Gaming Local*
2 *Community Benefit Committee shall follow the priorities*
3 *established in subdivision (g). This committee has the following*
4 *additional responsibilities:*

5 *(A) Establishing all application policies and procedures for*
6 *grants from the Individual Tribal Casino Account or County Tribal*
7 *Casino Account.*

8 *(B) Assessing the eligibility of applications for grants from*
9 *local jurisdictions impacted by tribal gaming operations.*

10 *(C) Determining the appropriate amount for reimbursement*
11 *from the aggregate county tribal account of the demonstrated costs*
12 *incurred by the county for administering the grant programs. The*
13 *reimbursement for county administrative costs may not exceed 2*
14 *percent of the aggregate county tribal account in any given fiscal*
15 *year.*

16 *(2) The Indian Gaming Local Community Benefit Committee*
17 *shall be composed of seven representatives, consisting of the*
18 *following:*

19 *(A) Two representatives from the county, selected by the county*
20 *board of supervisors.*

21 *(B) Three elected representatives from cities located within*
22 *four miles of a tribal casino in the county, selected by the county*
23 *board of supervisors. In the event that there are no cities located*
24 *within four miles of a tribal casino in the county, other local*
25 *representatives may be selected upon mutual agreement by the*
26 *county board of supervisors and a majority of the tribes paying into*
27 *the Indian Gaming Special Distribution Fund in the county. When*
28 *there are no cities within four miles of a tribal casino in the county,*
29 *and when the Indian Gaming Local Community Benefit Committee*
30 *acts on behalf of a county where no tribes pay into the Indian*
31 *Gaming Special Distribution Fund, other local representatives*
32 *may be selected upon mutual agreement by the county board of*
33 *supervisors and a majority of the tribes operating casinos in the*
34 *county.*

35 *(C) Two representatives selected upon the recommendation of*
36 *a majority of the tribes paying into the Indian Gaming Special*
37 *Distribution Fund in each county. When an Indian Gaming Local*
38 *Community Benefit Committee acts on behalf of a county where no*
39 *tribes pay into the Indian Gaming Special Distribution Fund, the*

1 *two representatives may be selected upon the recommendation of*
2 *the tribes operating casinos in the county.*

3 *(c) Sixty percent of each individual tribal casino account shall*
4 *be available for nexus grants on a yearly basis to cities and*
5 *counties impacted by tribes that are paying into the Indian Gaming*
6 *Special Distribution Fund, according to the four-part nexus test*
7 *described in paragraph (1). Grant awards shall be selected by*
8 *each county's Indian Gaming Local Community Benefit*
9 *Committee and shall be administered by the county. Grants may be*
10 *awarded on a multiyear basis, and these multiyear grants shall be*
11 *accounted for in the grant process for each year.*

12 *(1) A nexus test based on the geographical proximity of a local*
13 *government jurisdiction to an individual tribal land upon which a*
14 *tribal casino is located shall be used by each county's Indian*
15 *Gaming Local Community Benefit Committee to determine*
16 *relative priority for grants, using the following criteria:*

17 *(A) Whether the local government jurisdiction borders the*
18 *tribal lands on all sides.*

19 *(B) Whether the local government jurisdiction partially*
20 *borders tribal lands.*

21 *(C) Whether the local government jurisdiction maintains a*
22 *highway, road, or other thoroughfare that is the predominant*
23 *access route to a casino that is located within four miles.*

24 *(D) Whether all or a portion of the local government*
25 *jurisdiction is located within four miles of a casino.*

26 *(2) Fifty percent of the amount specified in subdivision (c) shall*
27 *be awarded in equal proportions to local government jurisdictions*
28 *that meet all four of the nexus test criteria in paragraph (1). If no*
29 *eligible local government jurisdiction satisfies this requirement,*
30 *the amount specified in this paragraph shall be made available for*
31 *nexus grants in equal proportions to local government*
32 *jurisdictions meeting the requirements of paragraph (3) or (4).*

33 *(3) Thirty percent of the amount specified in subdivision (c)*
34 *shall be awarded in equal proportions to local government*
35 *jurisdictions that meet three of the nexus test criteria in paragraph*
36 *(1). If no eligible local government jurisdiction satisfies this*
37 *requirement, the amount specified in this paragraph shall be made*
38 *available for nexus grants in equal proportions to local*
39 *government jurisdictions meeting the requirements of paragraph*
40 *(2) or (4).*

1 (4) Twenty percent of the amount specified in subdivision (c)
2 shall be awarded in equal proportions to local government
3 jurisdictions that meet two of the nexus test criteria in paragraph
4 (1). If no eligible local government jurisdiction satisfies this
5 requirement, the amount specified in this paragraph shall be made
6 available for nexus grants in equal proportions to local
7 government jurisdictions meeting the requirements of paragraph
8 (2) or (3).

9 (d) Twenty percent of each individual tribal casino account
10 shall be available for discretionary grants to local jurisdictions
11 impacted by tribes that are paying into the Indian Gaming Special
12 Distribution Fund. These discretionary grants shall be made
13 available to all local jurisdictions in the county irrespective of any
14 nexus to impacts from any particular tribal casino, as described in
15 paragraph (1) of subdivision (c). Grant awards shall be selected
16 by each county's Indian Gaming Local Community Benefit
17 Committee and shall be administered by the county. Grants may be
18 awarded on a multiyear basis, and these multiyear grants shall be
19 accounted for in the grant process for each year.

20 (e) Twenty percent of each individual tribal casino account
21 shall be available for discretionary grants to local jurisdictions
22 impacted by tribes that are not paying into the Indian Gaming
23 Special Distribution Fund. These grants shall be made available
24 to local jurisdictions in the county irrespective of any nexus to
25 impacts from any particular tribal casino, as described in
26 paragraph (1) of subdivision (c), and irrespective of whether the
27 impacts presented are from a tribal casino that is not paying into
28 the Indian Gaming Special Distribution Fund. Grant awards shall
29 be selected by each county's Indian Gaming Local Community
30 Benefit Committee and shall be administered by the county. Grants
31 may be awarded on a multiyear basis, and of these multiyear
32 grants shall be accounted for in the grant process for each year.

33 (1) Grants awarded pursuant to this subdivision are limited to
34 addressing service-oriented impacts and providing assistance with
35 one-time large capital projects related to Indian gaming impacts.

36 (2) Grants shall be subject to the sponsorship of the tribe that
37 operates the particular Indian gaming facility and the
38 recommendations of the Indian Gaming Local Community Benefit
39 Committee for that county.

(f) For each county that does not have gaming devices subject to an obligation to make payments to the Indian Gaming Special Distribution Fund, funds may be released from the county's County Tribal Casino Account to make grants selected by the county's Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to any particular tribal casino. These grants shall follow the priorities specified in subdivision (g).

(g) The following uses shall be the priorities for the receipt of grant money from Individual Tribal Casino Accounts: law enforcement, fire services, emergency medical services, environmental impacts, water supplies, waste disposal, behavioral, health, planning and adjacent land uses, public health, roads, recreation and youth programs, and child care programs.

(h) All grants from Individual Tribal Casino Accounts shall be made only upon the affirmative sponsorship of the tribe paying into the Indian Gaming Special Distribution Fund from whose individual tribal casino account the grant moneys are available for distribution. Tribal sponsorship shall confirm that the grant application has a reasonable relationship to a casino impact and satisfies at least one of the priorities listed in subdivision (g). A grant may not be made for any purpose that would support or fund, directly or indirectly, any effort related to opposition or challenge to Indian gaming in the state, and, to the extent any awarded grant is utilized for any prohibited purpose by any local government, upon notice given to the county by any tribe from whose Individual Tribal Casino Account the awarded grant went toward that prohibited use, the grant shall terminate immediately and any moneys not yet used shall again be made available for qualified nexus grants.

(i) A local government jurisdiction that is a recipient of a grant from an Individual County Tribal Casino Account or a County Tribal Casino Account shall provide notice to the public, either through a slogan, signage, or other mechanism, which states that the local government project has received funding from the Indian Gaming Special Distribution Fund and which further identifies the

1 particular Individual Tribal Casino Account from which the grant
2 derives.

3 (j) (1) Each county's Indian Gaming Local Benefit Committee
4 shall submit to the Controller a list of approved projects for
5 funding from Individual Tribal Casino Accounts. Upon receipt of
6 this list, the Controller shall release the funds directly to the local
7 government entities for which a grant has been approved by the
8 committee.

9 (2) Funds not allocated from an individual tribal casino
10 account by the end of each fiscal year shall revert back to the
11 Indian Gaming Special Distribution Fund.

12 12716. Each county which administers grants from the Indian
13 Gaming Special Distribution Fund shall provide an annual report
14 to the Legislature by April 1st of each year detailing the specific
15 projects funded by all grants in their jurisdiction.

16 12717. The State Auditor shall conduct an audit every three
17 years regarding the allocation and use of moneys from the Indian
18 Gaming Special Distribution Fund by the recipient of the grant
19 moneys. The State Auditor shall report its findings to the
20 Legislature and to all other appropriate entities.

21 12718. This chapter shall remain in effect only until January
22 1, 2009, and as of that date is repealed, unless a later enacted
23 statute that is enacted before January 1, 2009, deletes or extends
24 that date.

25 SEC. 4. The sum of twenty five million dollars (\$25,000,000)
26 is hereby appropriated from the Indian Gaming Special
27 Distribution Fund to the Controller for distribution to local
28 government agencies impacted by tribal gaming pursuant to the
29 provisions of Chapter 7.5 (commencing with Section 12710) of
30 Part 2 of Division 3 of Title 2 of the Government Code.

31 SEC. 5. Notwithstanding Section 17610 of the Government
32 Code, if the Commission on State Mandates determines that this
33 act contains costs mandated by the state, reimbursement to local
34 agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million dollars
38 (\$1,000,000), reimbursement shall be made from the State
39 Mandates Claims Fund.

SEC. 6. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

In order to provide critically needed grants to local government agencies to mitigate the impacts of tribal gaming, it is necessary that this act take effect immediately.

Code is amended to read:

~~23104.2. (a) Subject to the exceptions specified in subdivision (b), a retail licensee may return beer to the wholesaler or manufacturer from whom the retail licensee purchased the beer, or any successor thereto, and the wholesaler, manufacturer, or successor thereto may accept that return if the beer is returned in exchange for the identical quantity and brand of beer. No wholesaler or manufacturer, or any successor thereto, shall accept the return of any beer from a retail licensee except when the beer delivered was not the brand or size container ordered by the retail licensee or the amount delivered was other than the amount ordered, in which case the order may be corrected by the wholesaler or manufacturer who sold the beer, or any successor thereto. If a package had been broken or otherwise damaged prior to or at the time of actual delivery, a credit memorandum may be issued for the returned package by the wholesaler or manufacturer who sold the beer, or any successor thereto, in lieu of exchange for an identical package when the return and corrections are completed within 15 days from the date the beer was delivered to the retail licensee. If the 15th day from the date the beer was delivered falls on a Saturday, Sunday, or legal holiday, the return and corrections shall be completed by the next business day following the 15th day.~~

~~(b) Notwithstanding subdivision (a), a wholesaler or manufacturer, or any successor thereto, may accept the return of beer purchased from that wholesaler, manufacturer, or successor thereto, as follows:~~

~~(1) (A) From a seasonal or temporary licensee if at the termination of the period of the license the seasonal or temporary licensee has beer remaining unsold, or from an annual licensee operating on a temporary basis if at the termination of the temporary period the annual licensee has beer remaining unsold.~~

1 (B) For purposes of subparagraph (A), an annual licensee shall
2 be considered to be operating on a temporary basis if he or she
3 operates at seasonal resorts, including summer and winter resorts,
4 or at sporting or entertainment facilities, including racetracks,
5 arenas, concert halls, and convention centers. Temporary status
6 shall be deemed terminated when operations cease for 15 days or
7 more. No wholesaler or manufacturer, or successor thereto, shall
8 accept the return of beer from an annual licensee considered to be
9 operating on a temporary basis unless the licensee notifies that
10 wholesaler or manufacturer, or successor thereto, within 15 days
11 of the date the licensee's operations ceased.

12 (2) (A) Subject to subparagraph (B), a wholesaler or
13 manufacturer, or any successor thereto, may, with department
14 approval, accept the return of a brand of beer discontinued in a
15 California market area or a seasonal brand of beer from a retail
16 licensee, provided that the beer is exchanged for a quantity of beer
17 of a brand produced or sold by the same manufacturer with a value
18 no greater than the original sales price to the retail licensee of the
19 returned beer. For purposes of this subparagraph, "seasonal brand
20 of beer" means a brand of beer, as defined in Section 23006, that
21 is brewed by a manufacturer to commemorate a specific holiday
22 season and is so identified by appropriate product packaging and
23 labeling.

24 (B) A discontinued brand of beer may not be reintroduced for
25 a period of 12 months in the same California market area in which
26 a return and exchange of that beer as described in subparagraph
27 (A) has taken place. A seasonal brand of beer may not be
28 reintroduced for a period of six months in the same California
29 market area in which a return and exchange of that beer as
30 described in subparagraph (A) has taken place.

31 (e) Notwithstanding subdivision (a), a wholesaler or
32 manufacturer, or any successor thereto, may accept the return of
33 beer purchased from that wholesaler or manufacturer, or any
34 successor thereto, by the holder of a retail license following the
35 revocation of, suspension of, voluntary surrender of, or failure to
36 renew the retail license.

37 (d) A wholesaler or manufacturer, or any successor thereto,
38 may credit the account of the retailer identified in subdivision (c)
39 in an amount not to exceed the original sales price to the retailer

1 of the returned beer, provided that the beer has been paid for in full.
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